

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4447 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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MANIBHAI CHATURBHAI PATEL ENQUIRY OFFICER

Versus

STATE OF GUJARAT

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Appearance:

MR PJ VYAS for Petitioner

MR VB GHARANIA for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 03/12/96

ORAL JUDGMENT

The learned counsel for the petitioner filed Civil application seeking leave of this Court to add para 9-A to the petition. The learned counsel for the respondent has no objection in case this application is allowed. The application is allowed and the petitioner is permitted to add para 9-A to the petition accordingly. Necessary amendment to the petition may be made forthwith.

2. Heard learned counsel for the parties on merits of the matter.

3. The petitioner, an Enquiry Officer, City Survey (Maninagar), Land Records Department, filed this petition before this Court and challenge is made therein to the order annexure 'A' dated 11th July 1983, under which the Revenue Department has disallowed him to cross Efficiency Bar after stage of Rs.1020 in the pay scale of Rs.700-1500. One of the contentions raised by learned counsel for the petitioner is that the respondent has not given any notice or opportunity of hearing to the petitioner before making the order annexure 'A' impugned in this Special Civil Application. The petitioner's counsel made a reference to the Circular of the Government dated 29th September 1975 under which there is a provision which puts an obligation upon the authority to give an opportunity of hearing to the concerned employee where it is proposed to disallow him to cross Efficiency Bar. Reply to this writ petition has not been filed by the respondent and as such the averments made therein that the order annexure 'A' impugned in this Special Civil Application has been passed without notice stands uncontroverted.

4. Only on this count the petition deserves to be accepted. In the result, this writ petition is allowed in part and the order annexure 'A' is set aside and it is hereby directed that the annexure 'A' may be treated to be a notice to the petitioner and the petitioner may give reply to the same and after considering his reply as well as, if the petitioner desires, giving opportunity of personal hearing, the respondent shall pass necessary orders in accordance with law. Rule made absolute in aforesaid terms with no order as to costs.

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